IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 7345 of 2004

Between:

Rev.Ch.Rajarathnam, S/o Late Swamidoss, Pastor of Gudur Parish, Under South Andhra Luthern Church, R/o Gudur, Nellore District.

..... PETITIONER

AND

1 Rev.K.P.Luther Babu, S/o Sri K.Samuel Nayakan,
Pastor, Gudur Parish, R/o Church Compound, Gudur.
2 The Superintendent of Police, Nellore District, Nellore.
3 The Deputy Superintendent of Police, Gudur Town, Nellore District-524 101
4 The Inspector of Police, Gudur Town, Gudur, Nellore District- 524 101

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or Order or direction more particularly one in the nature of a Writ of Mandamus, directing the respondents Nos.2 to 4 herein to immediately investigate and inquire into the complaint dated 09-04-2004 given by the petitioner against the 1st respondent and proceed further in accordance with the provisions of Code of Criminal Procedure

Counsel for the Petitioner: DR.P.BHASKARA MOHAN

Counsel for the Respondent No.1: MR.M.S.PRASAD

Counsel for the Respondent Nos.2 to 4: GP FOR HOME

The Court made the following :

ORDER:

Heard both sides and perused the material on record.

The petitioner seeks a writ of Mandamus directing respondents 2 to 4, to immediately investigate and enquire into the complaint dated 09.04.2004 made by him against the first respondent and proceed further in accordance with the provisions of Criminal Procedure Code.

In the affidavit filed in support of the writ petition, the petitioner states that he is a Pastor under the South Andhra Luthern Church, Tirupathi. In the year 1998, he was a Pastor in the Nellore Parish. When he was transferred to Gudur Parish, the first respondent, who was working as a Pastor at Gudur, filed O.S.No.101 of 1998 in the Court of the Principal Junior Civil Judge, Tirupathi, seeking a declaration and consequential injunction restraining the defendants from in any interfering with his services as Pastor of Gudur Parish. On 01.03.2001, the said suit was dismissed with costs. The first respondent filed A.S.No.34 of 2001 on the file of III Additional District Judge, Tirupathi, which was also dismissed on 30.12.2002. Then, the first respondent preferred S.A.No.57 of 2003, which was dismissed by this Court on 09.02.2004. However, this Court while dismissing the second appeal, ordered that the judgment shall be kept in abeyance for a period of two months. The said two months period also expired on 08.04.2004. In the circumstances, the petitioner, on 09.04.2004, went to Gudur along with his wife to take charge as Pastor. It is alleged that the petitioner and his family members were prevented from entering into the Church by the first respondent and his men, namely, John Sundaram, Prasad, Vijay Kumar and others, and they were physically driven out by use of force and the Church gates were

locked. Immediately, the petitioner lodged a police complaint but the Deputy Superintendent of Police observed that since it is a civil matter, he would not be able to do anything. In the circumstances, challenging the alleged inaction on the part of the respondents 2 to 4 which is creating law and order problem, this writ petition is filed. The petitioner also expressed his apprehension that the police may not investigate into his complaint dated 09.04.2004 and that the conduct of the Deputy Superintendent of Police gives rise to such an apprehension.

On behalf of respondents 2 to 4, Sri L.Prabhakar Rao, Sub-Inspector of Police, I Town Station, Nellore District, filed a counter affidavit stating that the petitioner approached Gudur I Town Police Station, Nellore, on 09.04.2004 against one Gaddam Luther and four others, namely, A.John Sundaram, Mattam Devaprasad, B.Vijayakumar, P.Chinna @ Chinni, stating that they prevented him from entering into the church on 09.04.2004 and locked the church gates. It is also stated that on receipt of the above complaint, the same was acknowledged vide Receipt No.45 of 2004 dated 09.04.2004 and was entered in the General Diary of the Police and after causing preliminary enquiry therein, a case in Crime No.44 of 2004 under Sections 143, 341 and 506 IPC was registered on the file of Gudur I Town Police Station on 20.04.2004 and is under investigation. It is further stated that in the complaint dated 09.04.2004, the petitioner has not made any allegations against the first respondent except stating the civil disputes between himself and the first respondent and therefore the first respondent has not been shown as an accused in the above case.

A copy of the complaint dated 09.04.2004 has been placed before this Court. On a perusal of the same, it is clear that the name of first respondent has not been mentioned in the said complaint. Thus, as rightly contended by respondents 2 to 4, there was no allegation against the first respondent.

Coming to the alleged inaction on the part of respondents 2 to

4, it is clear from the counter affidavit that on the basis of the complaint lodged by the petitioner dated 09.04.2004, a case in Crime No.44 of 2004 has already been registered and the same is under investigation.

In the circumstances, the allegation of the petitioner that respondents 2 to 4 failed to take any action in pursuance of his complaint dated 09.04.2004 is unfounded. However, the learned counsel for the petitioner further contended that the first respondent ought to have handedover the charge as Pastor instead of resorting to physical force and that respondents 2 to 4 ought to have provided necessary security to enable the petitioner to take charge as Pastor in terms of the judgment of this Court in S.A.No.57 of 2003, dated 09.02.2004. The said issue is not the subject matter of this writ petition. The entire affidavit filed in support of the writ petition speaks about the alleged inaction on the part of respondents 2 to 4 on the basis of the complaint lodged by the petitioner dated 09.04.2004. There is no allegation with regard to the inaction on the part of respondents 2 to 4 to provide security. In the circumstances, I am not inclined to go into the said issue.

As expressed above in the light of the counter affidavit filed by respondents 2 to 4 stating that the necessary steps have been taken on the basis of the petitioner's complaint and investigation is under progress, the allegation of inaction on the part of the respondents 2 to 4 cannot be accepted. Accordingly, the writ petition is disposed of with a direction to the respondents 2 to 4 to proceed with the investigation and take further steps in accordance with law. No costs.

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04.08.2004

VGB

To

1 The Superintendent of Police, Nellore District, Nellore.
2 The Deputy Superintendent of Police, Gudur Town, Nellore District-524 101
3 The Inspector of Police, Gudur Town, Gudur, Nellore District- 524 101

4 2CCs to the Government Pleader for Home, High Court Buildings,

Hyderabad (OUT)

5 2CD copies